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OFFICE OF PETITIONS

In re Application of
David A. Dalessandro et al.
Application No. 10/674,303
Filed: September 30, 2003
Attorney Docket No: ETH5093

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ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)¹, filed March 3, 2009, to revive the above-identified application.

The petition is **GRANTED**.

A non-Final Office Action was mailed June 6, 2006 setting a three month shortened statutory period for reply. No response or request for an extension of time having been filed in this application prior to the expiration of the time set for reply, this application became abandoned September 7, 2006. Accordingly, a Notice of Abandonment was mailed January 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application under 37 CFR 1.53(b); (2) the petition fee of \$1620; and (3) an adequate statement of unintentional delay.

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuation in part application no. 11/633,291 filed December 4, 2006, pursuant to the provisions of 37 CFR 1.53(b).

The petition fee in the amount of \$1620 has been charged to deposit account no. 10-0750

This matter is being referred to Technology Center 3721 for processing of the continuation application filed December 4, 2006.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial "P".

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions